IN THE HIGH COURT FOR THE STATES OF PUNJAB & HARYANA AT CHANDIGARH

...

Criminal Misc. No.9141-M of 2007 (O&M)

Decided on : November 22, 2007

Deepak Kumar

... Petitioner

VERSUS

The State of Punjab

... Respondents

CORAM :
HON'BLE MR.JUSTICE A.N.JINDAL

Present: Mr.D.S.Pheruman,
Advocate for the petitioner.

Mr.Satish Kumar Bhanot, Senior Deputy Advocate General for the respondent – State of Punjab.

A.N.JINDAL, J.-

Out of the two accused, namely Kundan Lal and Deepak Kumar, the police declared Kundan Lal as innocent and charge report was submitted against Deepak Kumar (petitioner) only. He was accordingly charge-sheeted by Chief Judicial Magistrate, Amritsar under Sections 326 and 324 of the Indian Penal Code.

Later on, consequent upon the recording of the statement of Inder Mohan (PW1), and on the application of the prosecution under Section 319 of the Code of Criminal Procedure, Kundan Lal was again summoned and both the accused were then charge-sheeted for the aforesaid Sections. However, vide order dated 6.12.2001 (P-5), the order summoning

Kundan Lal and charge qua him was also set aside. The fact remains that the Trial Court was to summon the witnesses after the framing of the charge for the second time on 14.5.2001. Earlier statement of Inder Mohan (PW1) was recorded on 1.9.2000 after the framing of the charge for the first time. Therefore, the Court was duty bound to summon the witnesses after the fresh charge was framed against him on 14.5.2001. In any case, perusal of statement of Inder Mohan recorded on 1.9.2000 (P-2), indicates that a limited cross-examination was conducted upon him as the court was in a mood to summon Kundan Lal, co-accused. Thus, it is expedient in the interest of justice and also under law to summon Inder Mohan (PW1) for cross-examination after subsequent charge.

The Trial Court appears to have been swayed by the fact that since only accused Deepak Kumar (petitioner) remained before him and he had already cross-examined, therefore, the witness need not be recalled for cross-examination, but that view was not correct. Consequently, the impugned order dated 24.10.2006 (P-8) is set aside and the Trial Court is directed to recall Inder Mohan (PW1) for examination.

A copy of this order be sent to the Trial Court for compliance.

(A.N.JINDAL)
JUDGE

The 22nd day of November, 2007
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To be Referred to Reporter - **Yes/ No**